

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PATRICK DONOHUE, as Parent and Natural Guardian of
S.J.D.; PATRICK DONOHUE, individually,

Plaintiffs,

-against-

MICHAEL KENNEDY LLOYD; CITY OF NEW YORK;
NEW YORK CITY DEPARTMENT OF EDUCATION;
STATE OF NEW YORK; NEW YORK STATE BOARD
OF REGENTS; and NEW YORK STATE EDUCATION
DEPARTMENT,

Defendants.
----- X

**NOTICE OF MOTION TO
DISMISS**

No. 18 CV 9712 (DAB)

TAKE NOTICE that, upon the accompanying Defendants City of New York and New York City Department of Education’s Memorandum of Law in Support of Their Motion to Dismiss, dated November 20, 2018, and upon all other papers and proceedings had herein, Defendant the City of New York (“the City”) and Defendant New York City Department of Education (“DOE”) (collectively, “Municipal Defendants”), by their attorney, Zachary W. Carter, Corporation Counsel of the City of New York, will move this Court before the Honorable Deborah A. Batts of the United States District Court for the Southern District of New York at the United States Courthouse located at 500 Pearl Street, in New York, New York, on a date and time to be determined by the Court, for an order pursuant to Rule 12 of the Federal Rules of Civil Procedure dismissing the claims against Municipal Defendants in their entirety, and granting such other and further relief as the Court deems just and proper.

Municipal Defendants’ Motion should be granted on the grounds that (1) the City of New York is uninvolved in this matter; (2) Plaintiffs lack standing; (3) the Court lacks subject

matter jurisdiction over Plaintiffs' federal claims; (4) Plaintiffs fail to state a claim upon which relief may be granted under the Americans with Disabilities Act and the Rehabilitation Act; and (5) the Court should decline to exercise supplemental jurisdiction over Plaintiffs' claims under New York law.

TAKE FURTHER NOTICE that, pursuant to Local Civil Rule 6.1(b), Plaintiffs' opposing affidavits and answering memoranda, if any, shall be served upon Defendant within fourteen days, and Defendant's reply affidavits and memoranda of law, if any, shall be served within seven days after service of Plaintiffs' answering papers.

Dated: November 20, 2018
New York, New York

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By: /s/ David S. Thayer
DAVID S. THAYER
Assistant Corporation Counsel

To: ***Via ECF***

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Via ECF

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